



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE
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Jerome A. Brooks
Regional Director

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
MOTTLEY FOILS, INC.
EPA ID No. VAD990710659**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Mottley Foils, Inc., regarding their facility located in Farmville (Buckingham County), Virginia for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" means the MFI facility located at 20 Mohele Road in Farmville (Buckingham County), Virginia.
6. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.

7. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
8. "LQG" means a hazardous waste generator that generates any of the following amounts in a calendar month: 1000 kilograms (2200 pounds) or greater of non-acute hazardous waste, or greater than 1 kilogram (2.2 pounds) of acute hazardous waste, or greater than 100 kilograms (220 pounds) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in §261.31 or §261.33(e). *See* 40 CFR § 260.10.
9. "MFI" means Mottley Foils, Inc., a corporation authorized to do business in Virginia. MFI is a "person" within the meaning of Va. Code § 10.1-1400.
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
12. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
13. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
14. "RFI" means request for information.
15. "SDS" means safety data sheet.
16. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
17. "SQG" means a hazardous waste generator that generates any of the following amounts in a calendar month: greater than 100 kilograms (220 pounds) but less than 1,000 kilograms (2200 pounds) of non-acute hazardous waste, and less than or equal to 1 kilogram (2.2 pounds) of acute hazardous waste, and less than or equal to 100 kilograms (220 pounds) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in §261.31 or §261.33(e). *See* 40 CFR § 260.10.
18. "Va. Code" means the Code of Virginia (1950), as amended.
19. "VAC" means the Virginia Administrative Code.

20. "VSQG" means a generator who generates less than or equal to the following amounts in a calendar month: (1) 100 kilograms (220 lbs) of non-acute hazardous waste; and (2) 1 kilogram (2.2 lbs) of acute hazardous waste listed in §261.31 or §261.33(e) of this chapter; and (3) 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in §261.31 or §261.33(e). See 40 CFR § 260.1.
21. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. MFI owns and operates the Facility, a foil coating production plant located at 20 Mohele Road in Farmville (Buckingham County), Virginia. Operations at the Facility are subject to the Virginia Waste Management Act and Regulations.
2. MFI is currently identified in the RCRA Information System database as a Non Generator of hazardous waste, however at the time of the February 12, 2020 inspection, MFI was identified in the RCRA Information System database as a VSQG or generating less than 100 kilograms of non-acute hazardous waste per calendar month. MFI was issued EPA ID No. VAD990710659 for the Facility.
3. At the Facility, MFI generates various hazardous and non-hazardous wastes from foil processing. The following lists the solid wastes, which are also hazardous wastes, which are generated and accumulated at the Facility, followed by the corresponding waste code.

Hazardous Wastes and Undetermined Hazardous Wastes

Distillation still bottoms – possible waste codes D001, D035, F003, and F005

Remaining Toluene/Methanol blend – possible waste codes D001, F003, F005

Unused solvent based in formulations – waste codes to be determined

Unused Corrosives – possible D002 and other codes to be determined

Universal Wastes

Fluorescent lamps

Used Oil for Recycling

Non-Hazardous Wastes/Non-RCRA Wastes

General facility trash

Empty drums for recycling/disposal

4. On February 12, 2020, DEQ Piedmont Regional staff conducted an announced Compliance Evaluation Inspection (CEI) of the Facility. DEQ conducted the CEI to evaluate compliance with applicable Virginia Hazardous Waste Management Regulations (VHWMR).
5. Based on DEQ observations made during the February 12, 2020, DEQ inspection, MFI was operating as a LQG of hazardous waste, therefore MFI was evaluated for compliance for the applicable requirements for an LQG.

6. MFI generated LQG amounts of hazardous waste (greater than 2,220 lbs.) due to the instantaneous generation of unused chemicals that were unable to be utilized after August 2016 (product determined to be a waste) and MFI accumulated greater than 6,000 kg (or 13,200 lbs.) of hazardous waste on-site. MFI staff stated there was no intention of going back to the solvent-based ink coating process. MFI staff also stated that the reason material was not disposed of prior was primarily due to financial reasons. DEQ does not have on record documentation that the MFI had notified DEQ of the change in generator status.
7. Title 9 of the Virginia Administrative Code (9 VAC) 20-60-315.D of the VHWMR states, "Anyone who becomes a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record."
8. Based on C6 above, MFI did not appropriately determined its generator category.
9. Title 40 of the Code of Federal Regulations (40 CFR) §262.13(a) [as referenced by 9 VAC 20-60-262] states, "(a) Generators of either acute hazardous waste or non-acute hazardous waste. A generator who either generates acute hazardous waste or non-acute hazardous waste in a calendar month shall determine its generator category for that month by doing the following:
 - 1) Counting the total amount of hazardous waste generated in the calendar month;
 - 2) Subtracting from the total any amounts of waste exempt from counting as described in paragraphs (c) and (d) of this section; and
 - 3) Determining the resulting generator category for the hazardous waste generated using Table 1 of this section."
10. 40 CFR §261.2(a)(1) [as referenced by 9 VAC 20-60-261] states, "A solid waste is any discarded material that is not excluded under §261.4(a) or that is not excluded by a variance granted under §§260.30 and 260.31 or that is not excluded by a non-waste determination under §§260.30 and 260.34."
11. 40 CFR §261.2(a)(2)(i)(A) [as referenced by 9 VAC 20-60-261] states, "(2)(i) A discarded material is any material which is: (A) Abandoned, as explained in paragraph (b) of this section; or..."
12. 40 CFR §261.2(b)(3) [as referenced by 9 VAC 20-60-261] states, "(b) Materials are solid waste if they are abandoned by being: (3) Accumulated, stored or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated; or..."
13. MFI determined the unused chemicals on-site in Building #1, Building #2 and the remaining 900-1,000 gallons of unused solvent (toluene/methanol mix) in the on-site aboveground storage tank were a waste, and thus MFI became an LQG of hazardous waste. The hazardous waste has been on-site at the Facility since August of 2016 when the solvent-based ink application process ceased. The hazardous waste has been stored on-site for greater than 90-days without a permit for the storage.
14. 40 CFR §262.17(a) [as referenced by 9 VAC 20-60-262] states, "A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with

the requirements of parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, provided that all of the following conditions for exemption are met: (a) Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in paragraphs (b) through (e) of this section. The following accumulation conditions also apply:"

15. 40 CFR §262.17(b) [as referenced by 9 VAC 20-60-262] states, "Accumulation time limit extension. A large quantity generator who accumulates hazardous waste for more than 90 days is subject to the requirements of 40 CFR parts 124, 264 through 268, and part 270 of this chapter, and the notification requirements of section 3010 of RCRA, unless it has been granted an extension to the 90-day period. Such extension may be granted by EPA if hazardous wastes must remain on site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis."
16. Due to MFI's discontinued usage of solvent-based products in August of 2016, the remaining 900-1,000 gallons of solvent (toluene and methanol blend determined to be a waste) remaining in the aboveground storage tank on-site is subject to meeting all the large quantity generator requirements found in 40 CFR 265 Subpart J for hazardous waste tanks. MFI was not meeting the LQG requirements for hazardous waste storage in tanks.
17. 40 CFR §262.17(a)(2) [as referenced by 9 VAC 20-60-262] states, "If the waste is placed in tanks, the large quantity generator must comply with the applicable requirements of subparts J, except §265.197(c) of Closure and post-closure care and §265.200—Waste analysis and trial tests, as well as the applicable requirements of AA, BB, and CC of 40 CFR part 265."
18. 40 CFR §261.4(c) [as referenced by 9 VAC 20-60-261] states, "Hazardous wastes which are exempted from certain regulations. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under parts 262 through 265, 268, 270, 271 and 124 of this chapter or to the notification requirements of section 3010 of RCRA until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials."
19. MFI failed to notify DEQ of the exact location of the Facility's 90-day hazardous waste central accumulation areas (Building #1, Building #2, and the solvent above-ground storage tank between Building #1 and Building #2) upon becoming a LQG of hazardous waste.
20. 9 VAC 20-60-262 B.4 states, "For accumulation areas established after March 1, 1988, a large quantity generator shall notify the department and document in the operating record that he intends to accumulate hazardous waste in accordance with 40 CFR 262.17 prior to or immediately upon the establishment of each 90-day accumulation area. In the case of a new large quantity generator who creates such accumulation areas after March 1, 1988, he shall notify the department at the time the generator files the Notification of Hazardous Waste Activity EPA Form 8700-12 that he

intends to accumulate hazardous waste in accordance with 40 CFR 262.18. This notification shall specify the exact location of the 90-day accumulation area at the site.”

21. MFI failed to have a written training plan for hazardous waste management.
22. 40 CFR §262.17(a)(7)(i)(A-B) [as referenced by 9 VAC 20-60-262] states, “(A) Facility personnel must successfully complete a program of classroom instruction, online training (e.g., computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with this part. The large quantity generator must ensure that this program includes all the elements described in the document required under paragraph (a)(7)(iv) of this section. (B) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.”
23. MFI failed to maintain job titles and names of employees for those personnel who held hazardous waste management duties.
24. 40 CFR §262.17(a)(7)(iv)(A) [as referenced by 9 VAC 20-60-262] states, “The large quantity generator must maintain the following documents and records at the facility: (A) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;”
25. MFI failed to maintain a written description of the type and amount of both introductory and continuing training for personnel who had hazardous waste management duties.
26. 40 CFR §262.17(a)(7)(iv)(B) [as referenced by 9 VAC 20-60-262] states, “The large quantity generator must maintain the following documents and records at the facility: (B) A written job description for each position listed under paragraph (a)(7)(iv)(A) of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;”
27. MFI maintained RCRA hazardous training records for Mr. William Mottley and Mr. Earl Mottley from 2004 and 2005; however, no annual refresher training was completed.
28. 40 CFR §262.17(a)(7)(iii) [as referenced by 9 VAC 20-60-262] states, “Facility personnel must take part in an annual review of the initial training required in paragraph (a)(7)(i) of this section.”
29. At the time of the DEQ inspection, MFI did not make emergency arrangements with the local fire department, hospitals, police or other emergency response contractors. MFI did submit documentation of form letters with Facility information that had been submitted to the local police, fire department and local hospital that were dated March 13, 2020, after the DEQ inspection.
30. 40 CFR §262.256(a) [as referenced by 9 VAC 20-60-262] states, “The large quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, and local

hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if it is determined to be the appropriate organization with which to make arrangements.”

31. MFI did not maintain a hazardous waste contingency plan. MFI provided the DEQ an emergency action plan document; however, the document did not meet the hazardous waste contingency plan requirements of 40 CFR 262.260.
32. 40 CFR §262.260(a) [as referenced by 9 VAC 20-60-262] states, “A large quantity generator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.”
33. 40 CFR §262.261(a) [as referenced by 9 VAC 20-60-262] states, “The contingency plan must describe the actions facility personnel must take to comply with §§262.260 and 262.265 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.”
34. MFI did not have Quick Reference Guide consistent with the required hazardous waste contingency plan.
35. 40 CFR §262.262(b) [as referenced by 9 VAC 20-60-262] states, “A large quantity generator that first becomes subject to these provisions after May 30, 2017 or a large quantity generator that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified at paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee.”
36. MFI failed to label two 55-gallon drums with the words “Hazardous Waste.” The drums contained spent solvent still bottom sludge and were located in the mixing room building (Building #1). In addition, the two 55-gallon drums were not labeled with a start accumulation date.
37. 40 CFR §262.17(a)(5)(i)(A) [as referenced by 9 VAC 20-60-262] states, “(5) Labeling and marking of containers and tanks—(i) Containers. A large quantity generator must mark or label its containers with the following: (A) The words ‘Hazardous Waste’....(C) The date upon which each period of accumulation begins clearly visible for inspection on each container.”
38. MFI failed to conduct weekly inspections of the Central Accumulation Areas (Building #1, Building #2, and the solvent storage tank).
39. 40 CFR §262.17(a)(1)(v) [as referenced by 9 VAC 20-60-262] states, “(1) Accumulation of hazardous waste in containers. If the hazardous waste is placed in containers, the large quantity generator must comply with the following: (v) Inspections. At least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See paragraph (a)(1)(ii) of this section for remedial action required if deterioration or leaks are detected.”

40. DEQ staff observed eight 4-foot spent fluorescent lamps and one 8-foot spent fluorescent lamp in Building #3 (coating room electrical room) that were not containerized. The spent 4-foot lamps were taped together and labeled as "Bad". Additionally, DEQ staff observed twelve 8-foot spent lamps leaning against a wall in the old mixing room building (Building #1) that were not containerized or labeled. MFI did not have a start accumulation date labeled on the lamps or any additional documentation to demonstrate the length of time the lamps had been accumulating on-site.
41. 40 CFR §273.13(d)(1) [as referenced by 9 VAC 20-60-273] states, "A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions."
42. 40 CFR §273.14(e) [as referenced by 9 VAC 20-60-273] states, "Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."
43. 40 CFR §273.15(c) [as referenced by 9 VAC 20-60-273] states, "A small quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received."
44. MFI staff stated that the spent fluorescent lamps observed during the DEQ inspection may have been generated "years ago". MFI has accumulated universal waste lamps for greater than one year.
45. 40 CFR §273.15(a) [as referenced by 9 VAC 20-60-273] states, "A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of paragraph (b) of this section are met."
46. Due to the observed change in the Facility's generator status from VSQG to LQG (Observation #1), MFI would have been subject the Virginia specific LQG annual fee starting in calendar year 2016.
47. 9 VAC 20-60-262.B.8 states, "...large quantity generators are required to pay an annual fee." 9 VAC 20-60-1284(A) states, "The operator of the treatment, storage, or disposal facility and each large quantity generator shall pay the correct fees to the Department of Environmental Quality." 9 VAC 20-60-1285 sets LQG annual fees at \$1,000.
48. On February 24, 2020, the Department send MFI a Request for Information (RFI) asking for the following: 1. An inventory of chemicals located in Building #2 and a waste determination (hazardous waste or non-hazardous waste) including the material contents and amount of material in each container, 2. A count of the number of drums that were observed to be empty, 3. An inventory of chemical material in Building #1 including all areas where containers were present (mixing room, storage rooms, etc.), including a waste determination on the material identified

along with the material contents and volume in each container, 4. Verification of the estimated amount of material remaining the solvent product tank, and records related to LQG requirements.

49. On March 3, 2020, MFI provided the Department with the information required by the RFI.
50. On April 6, 2020, the Department issued an NOV to MFI citing them for the violations observed during the February 12, 2020, CEI.
51. On April 7, 2020, MFI called to discuss the NOV with the Department. MFI staff stated the chemicals were not "waste" but samples sent to his company for "tests." He said he did understand the need to dispose of them and was in touch with an environmental consultant to get a quote for disposal. MFI staff stated they sent in most of the items requested in RFI and they plan to continue working with the waste disposal company to remove drummed waste.
52. On June 30, 2020, MFI submits a progress report to the Department. MFI was working to complete all the paperwork on the barrels of unused ink ingredients. MFI found the SDS sheets for the waste, then the all the drums were weighed labeled and palletized for shipping. The corona virus made it difficult to find an available transporter for the waste.
53. On October 2, 2020, MFI submitted notification to EPA and the Department that they are a LQG of hazardous waste. This was required in order to ship the waste off-site.
54. MFI provided the Department with manifests for hazardous waste disposal dated November 5, 2020 and December 12, 2020.
55. On January 22, 2021, MFI informed the Department that the hazardous waste was removed from the Facility.
56. On February 5, 2021, Department staff inspected the Facility to confirm compliance and observed three 30-gallon drums in question and three small containers of chemicals that were stated to be no longer used in the mixing room. Also, one ~10-gallon blue drum of 1-methoxy-2-propanol acetate-N-Butyl Acetate located in the room left of the mixing room. Department staff informed MFI that these seven items will need a waste determination and proper disposal since they are no longer being utilized in the current process and were part or left over from the previous solvent based process.
57. MFI provided the Department with manifest documentation that on February 22, 2021, MFI shipped off the last of the waste from the Facility. Since the hazardous waste generation no longer occurs MFI requested a change from LQG to a non-generator.
58. MFI has completed the disposal of waste and is now identified as a non-generator on the RCRA Information System database. With injunctive relief complete, this Order only requires a civil charge.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders MFI, and MFI agrees to pay a civil charge of \$22,470 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

MFI shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, MFI shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of MFI for good cause shown by MFI, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, MFI admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein in this Order.
4. MFI consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. MFI declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein, except that MFI reserves its right to a hearing or other administrative proceeding authorized or required by law or to judicial review of any issue of fact or law contained in any subsequent amendments of this Order issued by the Board without the consent of MFI.

Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.

6. Failure by MFI to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority. MFI does not waive any rights or objections it may have in any enforcement action by other federal, state, or local authorities arising out of the same or similar facts to those recited in this Order.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. MFI shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. MFI shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. MFI shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.


Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the MFI intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and MFI.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after MFI has completed all of the requirements of the Order;

- b. MFI petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to MFI.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve MFI from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. The undersigned representative of MFI certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind MFI to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of MFI.
- 13. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
- 14. By its signature below, MFI voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 22nd day of June, 2022.


Jerome A. Brooks Pursuant to authority
delegated 03242022
Department of Environmental Quality
Piedmont Regional Director

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Mottley Foils, Inc. voluntarily agrees to the issuance of this Order.

Date: 4-14-22 By: William G. Mottley, Vice-President
(Person) (Title)
Mottley Foils, Inc.

Commonwealth of Virginia

City/County of Prince Edward

The foregoing document was signed and acknowledged before me this 14th day of April,

2022, by William G. Mottley, Vice-President who is Vice-President of

Mottley Foils, Inc. on behalf of the corporation.

Anne E. Strokos
Notary Public

159127

Registration No.

My commission expires: June 30, 2023

Notary seal:

